



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 26 2011

The Honorable James Inhofe
United States Senate
Washington, D.C. 20510

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

Dear Senator Inhofe:

Thank you for your letter of June 2, 2011, to President Obama expressing your concerns with the U.S. Environmental Protection Agency's (EPA) June 21, 2010, proposal to develop federal rules for the management and disposal of coal combustion residuals (CCR). The EPA has carefully considered its obligations and believes that the agency has followed all of the statutorily required procedures for undertaking this action. I also want to assure you that the EPA continues to strongly support the safe and protective beneficial use of CCR, and will continue to reflect this position in the future.

You specifically raised concern about the EPA's failure to submit a Report to Congress prior to issuing the proposed rule. Section 8002(n) of the Resource Conservation and Recovery Act (RCRA) established eight subjects that a study must address, required the Administrator to publish a report on the study "not later than twenty-four months after October 21, 1980," and to submit the study and report to specified committees in both houses of Congress [42 U.S.C. 6982(n)]. The EPA submitted the report required by section 8002(n) in two stages: the report on wastes generated from the combustion of coal by electric utilities in February 1988 and the report on the remaining wastes in March 1999. Subsection (n) establishes no other requirements. Since the EPA fulfilled the requirement to conduct and submit that Report, submission of an additional Report to Congress was not a prerequisite to issue the EPA's recent proposal.

In addition, let me assure you that the EPA is aware of the concerns that have been raised with respect to the potential for this rulemaking to collaterally affect the recycling of CCR. As the EPA noted in the proposed rule, the Agency does not wish to discourage environmentally sound and safe beneficial uses of CCR. The EPA proposed a number of actions designed to respond to this concern, such as the proposing to codify the listing of CCR as a "special waste" rather than as a "hazardous waste," and specifically requesting suggestions of other measures the agency could adopt to address the issue. The EPA is in the process of assessing comments and information received on the proposed rule regarding adverse impacts the proposed Subtitle C rule could have on CCR recycling.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,

A handwritten signature in black ink, appearing to read "Mathy Stanislaus", is written over a horizontal line.

Mathy Stanislaus
Assistant Administrator